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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,943	12/27/2000	Gregory C. Flickinger	T721-17	6477

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EXPANSE NETWORKS, INC.
300 NORTH BROADSTREET
DOYLESTOWN, PA 18901

EXAMINER

BUI, KIEU OANH T

ART UNIT

PAPER NUMBER

2611

DATE MAILED: 10/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

2

TV

Office Action Summary

Application No.

09/748,943

Applicant(s)

FLICKINGER ET AL.

Examiner

KIEU-OANH T BUI

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,3,4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 6 and 10-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Hendricks et al. (U.S. Patent No. 5,600,364/or “Hendricks” hereinafter).

Regarding claim 1, Hendricks discloses in a television network environment (Fig. 1), a method for delivering targeted advertisements to one or more subscribers, i.e., a plurality of set top terminals 220 receives advertisements from system 208 under the controller 214 (Fig. 4, and col. 15/lines 42-67), the method comprising: selecting one or more targeted advertisements to be transmitted to a group of subscribers; organizing the selected advertisements in an advertisement (ad) channel; and transmitting the ad channel to subscriber equipment, i.e., the advertisements are transmitted selectively to a group of subscribers on separate channels based on the demographics of the subscribers (col. 16/lines 1-60).

As for claim 6, in view of claim 1 above, Hendricks shows “wherein the targeted advertisements are encoded and transmitted as conventional programming” (Abstract, and col. 4/lines 36-67).

As for claims 10 and 11, Hendricks suggests “wherein the ad channel is a constant bit rate dedicated channel” and “wherein the ad channel is a variable bit dedicated channel”, i.e., the ad channel with its bandwidth can be constant or vary based on the size of the ad contents, some ads can be constant such as 30 seconds, or 15 min, some ad with programs can be one, two hours

or more (see Fig. 20a, 20b; and col. 34/lines 40-47 & col. 36/lines 24-57 & Fig. 10B for response message containing variable bit channel format).

As for claims 12 and 13, Hendricks shows “wherein the ad channel fluctuates responsive to a system channel” and “wherein the system channel is a programming channel”, i.e., ad channel being provided by the system or the network controller containing a programming channel to users (col. 36/lines 41-57).

Concerning claim 14, Hendricks discloses “wherein bandwidth supplied to the ad channel is inversely proportional to bandwidth used by the programming channel”, i.e., the increase in bandwidth used for programming channel will reduce the bandwidth for each ad channel proportionally (col. 38/lines 15-17).

As for claim 15, Hendricks suggests “wherein the ad channel is an off-peak download channel”, i.e., because the targeted ad is aiming alternatively at each individual with different categories at different timeslots in a day (col. 39/lines 39-53).

As for claim 16, Hendricks shows “wherein the off-peak download channel is a high bandwidth channel”, i.e., channels showing commercials are high bandwidth channels because they can carry ten videos, ten commercial channels (as illustrated in Fig. 20B).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-5, and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al (U.S. Patent No. 5,600,364) in view of Hendricks et al. (U.S. Pub No. 2002/0104083 A1).

Regarding claim 2, Hendricks '364 does not mention "wherein the ad channel is a high-speed channel"; however, Hendricks '083 does further address to include a high speed channel for delivering data services including classified or other forms of advertising to subscribers (page 30, section 0385). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hendricks 364's system with Hendricks 083's using forms of high speed data transfer in order to provide data services including advertising in the ad channel to subscribers interactively and quickly as taught by Hendricks 083.

As for claims 3-5, and 7-9, Hendricks '364 does not address the steps of "wherein the ad channel is a 6 MHZ analog channel"; "wherein the targeted advertisements are transmitted as analog video"; "wherein the ad channel is a 6 MHZ digital channel"; "wherein a plurality of ad channels are transmitted within a single 6 MHZ digital channel"; "wherein the ad channel shares bandwidth with other channels within a single 6 MHZ digital channel"; "wherein a plurality of digital ad channels are transmitted along with a plurality of digital video signals within one 6 MHZ channel"; however, Hendricks '083 teaches to use a 6 MHZ digital channel as the ad channel and that channel can either carry analog or digital signals (page 7, section 0106 for advertisements are received in both analog and digital forms; and Fig. 33, page 43, sections 0519-0521 for a single 6 MHZ channel for advertising). Therefore, it would have been obvious to one of ordinary skill in the art to modify Hendricks '364 with Hendricks '083 for the dedication of a single MHZ bandwidth channel for carrying analog and/or digital signals just for advertisements in order to have a transparent channel switching capabilities as suggested by Hendricks '083.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Dunn (US Patent 5,752,160) & Freeman et al. (US Pub No. 2002/0129374 A1) discloses interactive entertainment network system with video on demand.

6. **Any response to this action should be mailed to:**
Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9314, (for Technology Center 2600 only)


Hand-delivered responses should be brought to Crystal Park 77, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krista Kieu-Oanh Bui whose telephone number is (703) 305-0095. The examiner can normally be reached on Monday-Friday from 9:00 AM to 6:00 PM, with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile, can be reached on (703) 305-4380.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Krista Bui
Art Unit 2611
October 07, 2002


ANDREW FAILE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600